

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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WALTER BAYNE,

Plaintiff,

-against-

THE CITY OF NEW YORK, CHRISTOPHER KELLY  
(SHIELD NO. 6065), JOHN DOE 1-6 (representing an  
unidentified police officer)

Defendants.  
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**STIPULATION OF  
SETTLEMENT AND  
ORDER OF DISMISSAL**

09 CV 2906 (JG) (RLM)

**WHEREAS**, plaintiff commenced this action by filing a complaint on or about July 8, 2009 alleging violations of his constitutional rights and common law rights; and

**WHEREAS**, defendants have denied any and all liability arising out of plaintiff's allegations; and

**WHEREAS**, the parties now desire to resolve the issues raised in this litigation, without further proceedings and without admitting any fault or liability; and

**WHEREAS**, plaintiff has authorized his counsel to settle this matter on the terms set forth below;

**NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED**, by and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed with prejudice, and without costs, expenses, or attorneys' fees except as provided for in paragraph "2" below.

2. Defendant City of New York hereby agrees to pay plaintiff the sum of **Fifteen Thousand Dollars (\$15,000.00)** in full satisfaction of all claims, including claims for costs, expenses and attorneys' fees. In consideration for the payment of this sum, plaintiff agrees

to the dismissal of all claims against the named defendants City of New York, Police Officer Christopher Kelley, and to release all defendants, including the individuals named here as “JOHN DOE 1-6,” and any present or former officials, employees, representatives and agents of the City of New York, or any agency thereof, including but not limited to the New York City Police Department, from any and all liability, claims, or rights of action under state or federal law, that were or could have been alleged in this action, including claims for costs, expenses and attorneys’ fees.

3. Plaintiff shall execute and deliver to defendants’ attorney all documents necessary to effect this settlement, including, without limitation, a General Release based on the terms of paragraph “2” above and an Affidavit of Status of Liens.

4. Nothing contained herein shall be deemed to be an admission by any of the defendants that they have in any manner or way violated plaintiff’s rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.


5. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or any agency thereof.

6. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York  
\_\_\_\_\_, 2009

Robert Marinelli, Esq.  
*Attorney for Plaintiff*  
305 Broadway, 14th Floor  
New York, New York 10007  
(212) 822-1427

By:



ROBERT MARINELLI, ESQ.

MICHAEL A. CARDOZO  
Corporation Counsel of the  
City of New York  
*Attorney for Defendants City of New York  
and Police Officer Christopher Kelley*  
100 Church Street, Room 3-208  
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(212) 788-0823

By:



PHILIP R. DePAUL

Assistant Corporation Counsel

SO ORDERED:

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HONORABLE JOHN GLEESON  
UNITED STATES DISTRICT JUDGE